

Schlesinger Blames Congress in ABA Speech

Scholars Criticize Presidential Power

8/11/75
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MONTREAL, Aug. 10—One year after the resignation of President Nixon the United States still suffers from an excess of presidential power, the American Bar Association was told here today.

Historian Arthur Schlesinger Jr., political scientist James MacGregor Burns and legal scholar Raoul Berger agreed that the constitutional balance of power remained heavily tipped toward the executive despite expectations last year that Congress would assert itself in 1975.

An assessment of executive power by the scholars and by impeachment lawyers James D. St. Clair and Albert K. Jenner Jr., drew more than 1,000 ABA members and guests as part of the association's 98th annual convention.

Schlesinger said that instead of the expected shift in power, "on issue after issue, Congress has shown itself confused, vacillating, dilatory and ineffectual."

Meanwhile, President Ford has escaped close congressional scrutiny in the Mayaguez affair, Congress is letting him double his senior White House staff and the chief executive is portrayed as a hero in the news media, Schlesinger said.

In these circumstances, Schlesinger asked, "Who can blame the President—any President—for using the power he discovers he has?"

Burns called for stronger political checks on presidential power, especially the building of stronger political parties both to oppose the incumbent administration and to force presidents to cooperate more closely with their own political party.

The party structure "desperately needs strengthening," Burns said. Although it was the Republican Party's power that was overwhelmed by Nixon's re-election committee machinery, Burns said, "the Democrats also have no defenses against that kind of presidential abuse."

Berger said the President's limited consultation with Congress in May during and after military action to free the American crew of the merchant ship Mayaguez, captured by Cambodians, showed

gives Congress the power to initiate war action, is being disregarded.

St. Clair, Nixon's lawyer during the impeachment proceedings, said Watergate and its aftermath had produced "a needed adjustment in political power" without crippling the presidency. But he said future presidents "should listen more to Congress," which often has a better knowledge of popular will.

Jenner, a counsel to the House Judiciary Committee impeachment inquiry, said a speech here Saturday by FBI Director Clarence M. Kelley

dramatized the danger of unaccountable executive power.

Kelly had defended wiretapping without a warrant in foreign intelligence cases and said Americans "should be willing to surrender a small measure of our liberties to preserve the great bulk of them."

But Jenner said that "if Americans surrender some of their rights in that way they will lose all of them. Who is going to decide which right is the small one? This is not a government of men, it is a government of laws."

At another ABA meeting today, Supreme Court Justice Thurgood Marshall praised the growth of public-interest law firms representing consumer interests in courts and government agencies, but said they need more money and support from the organized bar.

The justice spoke at an awards luncheon at which the ABA honored local bar associations for programs expanding citizen understanding of the law. The District of Columbia bar received an award for encouraging public interest law practice in Washington.